

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION**

NO. 2:17-CV-00004-FL

**SAVE OUR SOUND OBX, INC., THOMAS
ASCHMONEIT, RICHARD AYELLA, DAVID
HADLEY, MARK HAINES, JER MEHTA, and
GLENN STEVENS,**

Plaintiffs,

v.

**NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION, JAMES H. TROGDON,
III, in his official capacity as Secretary of the
North Carolina Department of Transportation,
FEDERAL HIGHWAY ADMINISTRATION,
and JOHN F. SULLIVAN, III, in his official
capacity as Division Administrator for the
Federal Highway Administration,**

Defendants,

and

**DEFENDERS OF WILDLIFE and NATIONAL
WILDLIFE REFUGE ASSOCIATION,**

Defendant-Intervenors.

**PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT**

[Fed. R. Civ. P. 56; Local Civil Rules
7.1, 56.1]

Pursuant to Federal Rule of Civil Procedure 56, Plaintiffs Save Our Sound OBX, Inc., Thomas Aschmoneit, Richard Ayella, David Hadley, Mark Haines, Jer Mehta, and Glenn Stevens hereby move the Court to enter summary judgment in Plaintiffs' favor on all claims for relief in Plaintiffs' Second Amended Complaint. For the reasons provided in the accompanying Memorandum of Law in Support of Plaintiffs' Motion for Summary Judgment, Plaintiffs

respectfully submit that the Administrative Record establishes that Defendants violated the National Environmental Policy Act, codified as 42 U.S.C. §§ 4321 *et seq.*, Section 4(f) of the Department of Transportation Act of 1966, codified as 49 U.S.C. § 303 and 23 U.S.C. § 138, and Section 106 of the National Historic Preservation Act, codified as 54 U.S.C. § 306108, and acted arbitrarily and capriciously in violation of the Administrative Procedure Act in issuing the Record of Decision and its supporting documents for Phase IIb of the Bonner Bridge Replacement Project.

Dated: January 10, 2018

Respectfully submitted,

/s/ Michael K. Murphy
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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of January, 2018, I electronically filed a copy of the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing, and pursuant to Local Civil Rule 5.1(e), shall constitute service upon, the following:

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This the 10th day of January, 2018.

/s/ Bryson C. Smith
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